IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.136 OF 2004
IN
FAMILY COURT APPEAL NO.85 OF 2004

Shirishkumar vithal Kuvalekar ..Applicant

versus

Mrs.Charulata Shirishkumar Kuvalekar ..Respondent

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Ms.Gauri Godse for the applicant.

Mrs.Seema Sarnaik for the Respondent.

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**Coram : S.B.Mhase &**
**R.S.Mohite,JJ**

Date : 05.10.2004.

PC

. Heard both sides.

1. This is a Civil application for stay of an order passed in favour of the respondent granting maintenance of Rs.2,500/-. The grievance of the applicant is that the Respondent is already employed and is earning gross salary of Rs.10,920/- and therefore, order of maintenance which has been passed by the Family court invoking jurisdiction under Section 18 of the Maintenance Act is improper. The learned Counsel for the applicant submitted that the respondent has received certain properties from

her first husband and therefore, that should have been taken into consideration by the court below. As against this, the learned Counsel for the respondent has submitted that the salary of the applicant is Rs.19,970/- and he is working in the Central Excise department as a Superintendent. He is in possession of 3 flats and other properties.

2. What we have noticed while granting the maintenance under Section 18 of the Maintenance Act, that the standard of living of the parties to be taken into consideration and if both sides are earning sides, then the earning of husband and wife is required to be considered. We find in view of the submissions made by both the parties and the actual admission that both the parties are employed, quantum of Rs.2,500/- fixed by the Family court prima facie, found to be just and proper. At this stage, we do not desire to interfere with the said order.

3. We do not find any merits in the Civil application and hence, Civil application is rejected.

**(R.S.Mohite,J)** **(S.B.Mhase,J)**